

# AGREEMENT

This agreement made and entered into in triplicate this 23 day of May, 1962 in pursuance of the Act of June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplementary thereto, among THE UNITED STATES OF AMERICA, hereinafter styled "The United States", acting through such officer as is authorized therefor by the Secretary of Interior, HORSESHOE IRRIGATION COMPANY, a corporation organized and existing under the laws of the State of Utah, hereinafter styled "Horseshoe", and EMERY WATER CONSERVANCY DISTRICT, a conservancy district created and existing under the laws of the State of Utah, hereinafter styled "District",

## WITNESSETH:

WHEREAS, The United States is the owner of approved Applications Nos. 9108 and 13380, among others, filed in the office of the State Engineer of the State of Utah to appropriate waters from Cottonwood Creek and its tributaries for the Emery County Project, State of Utah; and

WHEREAS, Horseshoe is the owner of approved Applications Nos. 10977, 11455, 11703 and 12857 filed in the office of the State Engineer of the State of Utah to appropriate waters from the headwaters of Cottonwood Creek and its tributaries as more specifically described therein; and

WHEREAS, on the 19th day of January, 1962 Horseshoe filed a civil action in the District Court of Sanpete County to appeal from the decision of the Utah State Engineer in approving said Applications Nos. 9108 and 13380 entitled "Horseshoe Irrigation Company, a corporation,

plaintiff, v. Wayne D. Criddle, as State Engineer of the State of Utah, et al, defendants", being Civil No. 5099; and

WHEREAS, The United States and the District have entered into an Agreement in writing, dated the \_\_\_\_\_ day of \_\_\_\_\_, 1962, covering the construction, repayment, operation and maintenance of the Emery County Project and the diversion, storage, distribution and use of water thereunder, including the said Joes Valley Reservoir; and

WHEREAS, it is specifically provided under paragraph 7(b) of said Agreement between The United States and the District, dated the \_\_\_\_\_ day of \_\_\_\_\_, 1962, as follows:

"The United States is the owner of approved water right Application Nos. 9108 and 13380 covering the storage of 100,000 and 117,547 acre feet, respectively, of water at Joes Valley Reservoir site. It is understood and agreed that notwithstanding earlier priority dates, and to the extent determined by the United States, diversions under the above applications will not be made in any manner that will reduce diversions on the Cottonwood Creek watershed above Joes Valley Reservoir made in accordance with presently existing valid water rights through facilities constructed and used as of the date of this contract."

and

WHEREAS, the parties hereto desire to settle any conflict which exists or might in the future exist by reason of the approval of said Applications Nos. 9108 and 13380 and the diversion, storage, distribution and use of water thereunder;

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter provided for, it is mutually understood and agreed among the parties hereto as follows:

1. That, irrespective of priority dates, the diversion, storage, distribution and use of water under Applications Nos. 9108 and 13380 by The United States and the District shall not be made in any manner that will reduce Horseshoe's diversions on the Cottonwood Creek watershed above Joes Valley Reservoir under Applications Nos. 10977, 11455, 11703 and 12857 through facilities constructed and used on the Cottonwood Creek Drainage as of the date of this contract; provided, however, that nothing herein contained shall limit the right of Horseshoe to construct and use its proposed reservoir under Application No. 11703, or other facilities on the Sanpitch River Drainage, to better utilize the waters to be diverted by means of the facilities constructed and used on the Cottonwood Creek Drainage as of the date of this contract under its Applications enumerated above, it being understood that this agreement shall not be construed to permit Horseshoe to enlarge or increase its diversions from the Cottonwood Creek Drainage by reason of the construction of said reservoir.

2. Horseshoe shall dismiss with prejudice the civil action filed by it on the 19th day of January, 1962 in the District Court of Sanpete County entitled "Horseshoe Irrigation Company, a corporation, plaintiff, v. Wayne D. Criddle, as State Engineer of the State of Utah, et al, defendants", being Civil No. 5099.

In Witness Whereof the parties hereto have signed their names the day and year first above written.

THE UNITED STATES OF AMERICA

By \_\_\_\_\_  
Regional Director, Bureau of  
Reclamation

\_\_\_\_\_  
Witness

HORSESHOE IRRIGATION COMPANY, a  
corporation

Attest:

By \_\_\_\_\_  
Its President

\_\_\_\_\_  
Its Secretary

EVERY WATER CONSERVANCY DISTRICT,  
a body politic

Attest:

By \_\_\_\_\_  
Its President

\_\_\_\_\_  
Its Secretary

